

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Rosanne Edwards Murphy,)	
)	
Plaintiff,)	Civil Action No.: 2:05-2711-CWH
)	
versus)	
)	
Dr. Mark Schinkler)	<u>ORDER</u>
)	
Defendant.)	
_____)	

On September 19, 2005, the plaintiff, a resident of South Carolina, filed a complaint *pro se* against Dr. Mark Schinkler for sexual abuse, physical abuse, mental harassment, and medical malpractice. The plaintiff did not allege the citizenship of the parties. The plaintiff is a resident of Charleston County. The defendant is a South Carolina resident.

On September 29, 2005, Magistrate Judge George C. Kosko filed a report and recommended that this action be dismissed for lack of jurisdiction. On October 27, 2005, the plaintiff filed objections to the report and recommendation.

Although the plaintiff's *pro se* complaint is liberally construed, federal courts are of limited jurisdiction. Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is without 28 U.S.C. §1332 complete diversity jurisdiction because the plaintiff and defendant are both from South Carolina. Strawbridge v. Curtiss, 7 U.S. 267 (1806); Owen Equip. & Erection Co., v. Koger, 437 U.S. 365, 372-74 (1978).

Although medical malpractice is a cause of action under South Carolina state law, the complaint has not raised any federal questions. Pederson v. Gould, 341 S.E.2d 633, 634 (1986). Negligence is not a cause of action under 42 U.S.C. §1983. Daniel v. Williams, 474 U.S. 344,

345-48 (1986). Similarly, mental harassment is not actionable under 42 U.S.C. §1983. Estelle v. Gamble, 429 U.S. 97, 106 (1976). Therefore, this court is without 28 U.S.C. §1331 federal question jurisdiction.

Accordingly, the Court adopts Magistrate Judge Kosko's report and recommendation and dismisses this action without prejudice and without service of process for lack of subject matter jurisdiction.

AND IT IS SO ORDERED.

A handwritten signature in black ink, reading "C. Weston Houck". The signature is written in a cursive, flowing style.

C. WESTON HOUCK
UNITED STATES DISTRICT JUDGE

Charleston, South Carolina
October 31, 2005